

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.23941 of 1996

ORAL ORDER:

This writ petition is filed seeking a Certiorari to call for the records relating to I.D.No.633 of 1993 dated 24.6.1996 on the file of the first respondent-Labour Court and quash the same as arbitrary and illegal.

Petitioner is the management and second respondent is the workman. The workman laid claim petition in I.D.No.633 of 1993 before the first respondent-Labour Court under Section 2A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') seeking reinstatement into service with full back wages, continuity of service and other attendant benefits. It was the case of the workman that he joined the petitioner's office as watchman on 6.10.1989. He was paid Rs.15/- per day, which was enhanced to Rs.20/- per day from January 1990 and further enhanced to Rs.25/- per day from January 1992 onwards. He was also paid bonus on par with other regular employees. While so, suddenly, he was asked not to attend the duty with effect from 20.5.1993 without assigning any reasons. Though the workman approached the management several times, and got issued legal notice dated 9.8.1993, there was no response, therefore he filed claim petition before the first respondent-Labour Court. According to the workman, he worked for more than 240 days continuously and therefore, his services could not have been dispensed with without following the procedure as required under Section 25F of the Act.

The management filed counter denying the allegations made in the claim petition stating that the workman was employed only on casual basis and he is not a permanent employee and for permanent employees, management issued appointment orders. It was further stated that as per the duty registers filed into the Court, the workman did not work during the relevant period as alleged by him and he did not even work for 110 days,

therefore, he is not entitled to any relief.

On behalf of workman, W.Ws.1 to 3 were examined and documents Exs.W1 to W5 were marked. On behalf of management, M.Ws.1 and 2 were examined and documents Exs.M1 to M15 were marked.

After elaborate consideration of both oral and documentary evidence, the first respondent-Labour Court came to the conclusion that the management has violated the provisions of Section 25F of the Act while dispensing with the services of the workman, therefore, directed the management to reinstate the workman with continuity of service, however with 50% back wages. Aggrieved by the same, the management filed the present writ petition.

There is no necessity of going into all the details.

It is suffice to notice the evidence of M.W.2, in which he has categorically stated that the workman has worked continuously for more than 240 days. He admitted that other than race days also, they used to recruit casual workers on need basis and as per Ex.M.8, the workman had worked on 28.5.1993. Some workers used to attend Vikranthi and APCOS, which are not chambers and on such occasions, they were allowed to sign on the next day. He further admitted in the cross-examination that as per Ex.M.14, which is the register for bonus payment, the workman was paid bonus for the year 1989-90 and as per Ex.M15, the workman was paid bonus for the year 1991-92 and had worked for 302 days. On the basis of the admissions made by the Management Witness, the Labour Court came to the conclusion that the workman has worked for more than 240 days, and therefore, his services could not be have been dispensed with by the management without invoking the provisions of Section 25F of the Act. Insofar as relief is concerned, the Labour Court directed the management to reinstate the workman with continuity of service. Since the workman was only a casual labour, the Labour Court awarded 50% of the back wages. I am of the opinion that the Labour Court has not committed any error in

passing the Award dated 24.6.1996. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

C.V.RAMULU, J

Date: 19.12.2006

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**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.23941 of 1996

Date: 19th December, 2006

Between:

Hyderabad Race Club,
Malakpet, Hyderabad, rep. by its
Secretary.

.. Petitioner

And

Labour Court-I, Hyderabad,
represented by its Presiding Officer
and another.

.. Respondents